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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 DAMON ALLGIRE,

11 Plaintiff,

No. CIV S-04-1680 MCE GGH P

12 vs.

13 WARDEN R.A. CASTRO, et al.,

14 Defendants.

ORDER

15 _____/
16 On November 9, 2005, plaintiff filed a notice of change of address. On
17 September 26, 2005, defendants filed a motion to dismiss, after which, on October 11, 2005,
18 defendants filed an amended declaration of service; however, that re-service was upon his prior
19 address. Plaintiff may not have received the pending motion, in light of his most recent change
20 in address. Although plaintiff failed to serve his most recent change of address, in order to
21 obviate further delay, the court will now direct defendants to once again re-serve plaintiff with
22 their motion to dismiss, this time at the address set forth in docket entry # 21, within ten (10)
23 days.

24 Notwithstanding the exception to the requirement of service of the notice of
25 change of address the court has made in this instance, plaintiff is advised that every document
26 submitted to the court for consideration must be served on defendants. Fed. R. Civ. P. 5.

1 Documents not to be served electronically are usually served by placing a copy in the U.S. mail.
2 If an attorney has filed a document with the court on behalf of any defendant, then documents
3 submitted by plaintiff must be served on that attorney and not on the defendants. Every
4 document submitted conventionally to the court (e.g., by a prisoner proceeding pro se) must
5 include a certificate stating the date an accurate copy of the document was mailed to defendants
6 or their attorney and the address to which it was mailed. See Local Rule 5-135(b) and (c).

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Defendants must re-serve their motion to dismiss, originally filed on
9 September 26, 2005 (and re-served at his former address on October 11, 2005), within ten days
10 from the date of this order upon plaintiff at his current address as set forth in docket entry # 21.

11 2. Plaintiff will have 30 days from the date of re-service to file any opposition;
12 failure to do so shall be deemed a waiver of opposition;

13 3. Plaintiff is cautioned that failure to serve any documents subsequently filed in
14 this action properly, and failure to include a proper certificate of service with such filing, may
15 result in a recommendation that this action be dismissed.

16 DATED: 12/21/05

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18 /s/ Gregory G. Hollows

19 _____
20 GREGORY G. HOLLOWS
21 UNITED STATES MAGISTRATE JUDGE

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